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INVESTIGATION OF COMMUNIST ACTIVITIES IN THE
NEWARK, N. J., AREA (Supplemental)

HEARINGS
BEFORE THE
COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES
EIGHTY-FIFTH CONGRESS
FIRST SESSION

JULY 24, 1957

Printed for the use of the Committee on Un-American Activities

(INCLUDING INDEX)



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COMMITTEE ON UN-AMERICAN ACTIVITIES

UNITED STATES HOUSE OF REPRESENTATIVES

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JAMES B. FRAZIER, Jr., Tennessee

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BERNARD W. KEARNEY, New York

DONALD L. JACKSON, California

GORDON H. SCHERER, Ohio

ROBERT J. MCINTOSH, Michigan

RICHARD ARENS, *Director*

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PUBLIC LAW 601, 79TH CONGRESS

The legislation under which the House Committee on Un-American Activities operates is Public Law 601, 79th Congress [1946], chapter 753, 2d session, which provides:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * **

PART 2—RULES OF THE HOUSE OF REPRESENTATIVES

RULE X

SEC. 121. STANDING COMMITTEES

* * * * *

17. Committee on Un-American Activities, to consist of nine Members.

RULE XI

POWERS AND DUTIES OF COMMITTEES

* * * * *

(q) (1) Committee on Un-American Activities.
(A) Un-American activities.
(2) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

* * * * *

RULE XII

LEGISLATIVE OVERSIGHT BY STANDING COMMITTEES

SEC. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government.

RULES ADOPTED BY THE 85TH CONGRESS

House Resolution 5, January 3, 1957

* * * * *

RULE X

STANDING COMMITTEES

1. There shall be elected by the House, at the commencement of each Congress,

* * * * *

(q) Committee on Un-American Activities, to consist of nine Members.

* * * * *

RULE XI

POWERS AND DUTIES OF COMMITTEES

* * * * *

17. Committee on Un-American Activities.

(a) Un-American activities.

(b) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (1) the extent, character, and objects of un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

* * * * *

26. To assist the House in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the House shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the House by the agencies in the executive branch of the Government.

SYNOPSIS

Under date of May 19, 1955, Mrs. Estelle Laba, of Milburn, N. J., and Mr. Perry Zimmerman, of Newark, N. J., appeared before a subcommittee of the Committee on Un-American Activities and, although having previously been identified in sworn testimony as one-time members of the Communist Party, both invoked the privilege of the fifth amendment against self-incrimination when interrogated respecting Communist Party membership or activities.

The instant testimony was taken in executive session on July 24, 1957, at which time Mrs. Laba and Mr. Zimmerman were again interrogated respecting certain statements allegedly made by them before the superintendent of schools, board of education, Newark, N. J., under date of May 16, 1957.

In the instant testimony, both Mrs. Laba and Mr. Zimmerman refused to divulge any significant information respecting the alleged statements made by them to the superintendent of schools, and invoked their privilege under the fifth amendment against self-incrimination with reference to questions pertaining to the board of education's administrative hearings.

INVESTIGATION OF COMMUNIST ACTIVITIES IN THE NEWARK, N. J., AREA (SUPPLEMENTAL)

WEDNESDAY, JULY 24, 1957

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE
COMMITTEE ON UN-AMERICAN ACTIVITIES,
Washington, D. C.

EXECUTIVE SESSION ¹

The subcommittee of the Committee on Un-American Activities met in executive session, pursuant to call at 2 p. m., in room 226, Old House Office Building, Washington, D. C., Hon. Clyde Doyle presiding.

Committee members present: Representatives Clyde Doyle, of California, and Gordon H. Scherer, of Ohio.

Staff members present: Richard Arens, director, and Raymond T. Collins, investigator.

Mr. DOYLE. The subcommittee will come to order.

Mr. ARENS. Mrs. Laba, would you mind standing while the chairman administers the oath to you, if you please?

Mr. DOYLE. Do you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. LABA. I do.

TESTIMONY OF MRS. ESTELLE LABA, ACCOMPANIED BY COUNSEL, WILLIAM ROSSMOORE

Mr. ARENS. Will you identify yourself by name, residence, and occupation?

Mrs. LABA. My name is Estelle Laba. I am at 32 Berkeley Road, Millburn.

Mr. ARENS. In New Jersey?

Mrs. LABA. Yes, in New Jersey, and I am unemployed.

Mr. ARENS. You are appearing today, Mrs. Laba, in response to a subpoena which was served upon you by the House Committee on Un-American Activities?

Mrs. LABA. Yes.

Mr. ARENS. And you are represented by counsel?

Mrs. LABA. Yes, I am.

Mr. ARENS. Counsel, will you kindly identify yourself for this record?

¹ Released by committee and ordered to be printed.

Mr. ROSSMOORE. William Rossmore, 60 Park Place, Newark, N. J.

Mr. ARENS. For the purpose of further identification, are you the Mrs. Laba who appeared before a subcommittee of the Committee on Un-American Activities in May of 1955?

Mrs. LABA. Yes, that is correct.

Mr. ARENS. Let the record show, Mr. Chairman, that present today in this session, if you please, are yourself as chairman of this subcommittee and Mr. Gordon Scherer, of Ohio, 2 of a 3-member subcommittee which constitutes a quorum, the third member being the chairman of the full committee, Mr. Walter.

Mrs. LABA. May I say a few words that I have prepared pertinent to my appearance here?

Mr. ARENS. Yes.

Mrs. LABA. I want to make a few comments on my being called as a witness today.

First, Raymond Collins, an investigator for the committee, assured me that the committee does not call witnesses engaged in litigation and that he would get in touch with me after my case was settled.

Nevertheless, and contrary to policy, I was subpoenaed to appear. It seems to me that those forces in the community working against my reinstatement have exerted pressure to effect my appearance.

Secondly, Mr. Collins assured me that this would be an executive session without any publicity whatsoever. Nevertheless, a leak occurred with resultant publicity. Once before when the committee appeared in Newark 2 years ago, there was also a leak, and names of people who had been subpoenaed were published in the local press.

I feel that since the committee members are undoubtedly very careful with information at their disposal, and I have great deference for the committee, that an investigation might be made as to why these leaks occurred.

If the United States marshal's office is at fault, then the Attorney General might be so informed. If not, some other source might be looked for.

In view of these disclosures and, in addition, a leak that occurred on testimony given to Dr. Kennelly at a private inquiry where it was agreed that no disclosures would be made, I am dubious that, however well intentioned the committee may be, that even this session will be completely secret.

Third, I was expressly directed by Dr. Kennelly not to disclose any testimony given before him, and I feel it incumbent upon me to adhere to this directive.

Fourth, the New Jersey State Supreme Court made it very clear as to what steps were to be taken in my case. These steps are now in progress and since neither Congress nor this committee can exercise any valid legislative purpose in the field of local education, my forced appearance here now serves no legislative function and seems like actual interference with State and local authorities.

Mr. ARENS. May I make an observation for this record.

It is the information of this committee that there was, and perhaps is, in the Newark, N. J., area a union consisting of schoolteachers; that that union consisting of schoolteachers was heavily penetrated by members of the Communist Party.

This committee is considering legislation, with a view toward precluding certain certifications of unions which may be Communist controlled or penetrated. It is for that reason, among others, that we have invited you to appear here today to give us information which might be germane to the consideration of such proposed legislation.

I would like to ask you now, first of all, what is this private inquiry you were talking about as you read this statement a moment ago? You referred to some private inquiry before a Dr. Kennelly. What was that?

Mrs. LABA. This was held in Newark. Dr. Kennelly is superintendent of the Newark School System, and it is a matter of public record that such an inquiry was held as directed by the New Jersey State Supreme Court.

Mr. ARENS. Did you appear at that inquiry as a witness?

Mrs. LABA. I appeared at the inquiry.

Mr. ARENS. Were you sworn at the inquiry?

Mrs. LABA. In accordance with Dr. Kennelly's directives to me, which in turn were based on the New Jersey State Supreme Court decision, I feel that I cannot disclose any information concerning the inquiry other than what is publicly known, that there was such an inquiry and that it was held.

Mr. ARENS. Where were you when he gave you these directives you mentioned?

Mrs. LABA. I was in his office.

Mr. ARENS. Was it in the course of this public inquiry that he gave you this directive?

Mr. LABA. No. It was at the secret, private inquiry.

Mr. ARENS. Did you participate in the secret, private inquiry?

Mrs. LABA. I was a witness.

Mr. SCHERER. You said that this Dr. Kennelly was holding the hearing at the direction of the New Jersey Supreme Court?

Mrs. LABA. Yes, sir.

Mr. SCHERER. I am entirely unfamiliar with the litigation involved. Will you tell us about that directive and how it arose? That certainly is a public record.

Mrs. LABA. Briefly, I am engaged in litigation to be reinstated as a teacher in the city of Newark, and in the course of this litigation, directives were issued in a court order. Subsequently an inquiry was held by Dr. Kennelly.

Mr. SCHERER. Is the Supreme Court of New Jersey your highest court or is it the trial court?

Mrs. LABA. Isn't the supreme court always the highest court in the State?

Mr. SCHERER. No, the Supreme Court of the State of New York is its trial court.

Mrs. LABA. I don't know.

Mr. SCHERER. Will counsel advise her?

Mrs. LABA. The supreme court is the highest court in New Jersey.

Mr. SCHERER. What was the nature of this directive that was issued to Dr. Kennelly?

Mrs. LABA. Please rephrase your question. I don't know what you mean.

Mr. SCHERER. You said that the Supreme Court of New Jersey ordered Dr. Kennelly to conduct some kind of a hearing or an investigation. Is that what you said?

Mrs. LABA. Yes.

Mr. SCHERER. Do you know why the supreme court made such an order and what was the nature of the order? Why was he to conduct the hearing?

Mrs. LABA. I told you it was in reference to litigation that has been going on.

Mr. ARENS. What litigation?

Mrs. LABA. And I believe that the New Jersey State Supreme Court decision is a matter of public record, and you might easily avail yourselves of it.

Mr. SCHERER. We might get it. This is the first time I have heard of it. I just want you to tell me what it is. Do you not know?

Mrs. LABA. I am not so informed on legal matters—I do not feel that I can tell you exactly what the directive stated.

Mr. SCHERER. Tell us what you understand about it. I might want to ask some questions and I might be better able to ask those questions if I know the nature of the hearing and how it came about.

Mrs. LABA. The New Jersey State Supreme Court, after listening to my case sometime last winter—and this, of course, I am expressing as well as I can——

Mr. SCHERER. We understand that.

Mrs. LABA. Issued a directive that was to the effect that my dismissal had been illegal and that the case was to go back to the local authorities and that an investigation be made by Dr. Kennelly as to my fitness in various areas.

In fact, his recommendation would, in turn, be given to the local board of education for disposal of the case. That litigation is now pending. Dr. Kennelly's report, as a result of the inquiry, has not yet been given to the board to my knowledge.

Mr. ARENS. Were you interrogated by Dr. Kennelly while you were under oath?

Mrs. LABA. I beg your pardon?

Mr. ARENS. Were you interrogated by Dr. Kennelly while——

Mrs. LABA. I am sorry, but Dr. Kennelly directed me without equivocation to disclose no matter relevant to that inquiry.

Mr. ARENS. Were you a participant in the inquiry?

Mrs. LABA. Yes, that is a matter of public record.

Mr. ARENS. Were you a witness in the inquiry?

Mrs. LABA. I again have to state that Dr. Kennelly directed that no material relevant to the inquiry be disclosed.

Mr. SCHERER. Did you not testify a few minutes ago that you were a witness at the inquiry?

Mrs. LABA. I don't recall.

Mr. SCHERER. My recollection is that she did. Nevertheless, Mr. Chairman, I ask that you direct the witness to answer the question. She injected the hearing and voluntarily called our attention to this hearing as a basis for her refusal to answer, and I think we have a right, then, to ask her about it.

In fact, the question now before us does not even ask for an answer to what she said. It merely is a question of whether she ever partici-

pated in the hearing which she is using for the basis of refusing to answer our questions.

If she wishes to use that basis for refusal to answer, she has to at least tell us whether she was a witness or participant in the hearing.

Mrs. LABA. I was a participant at the hearing conducted by Dr. Kennelly.

Mr. ARENS. What did you do as a participant? Did you testify?

Mrs. LABA. I do not believe that that question is relevant and have to rely on my rights under the provisions of the fifth amendment.

Mr. DOYLE. What do you mean by a participant?

Mrs. LABA. A participant is a person who takes some part in an affair.

Mr. DOYLE. What was your action? How did you participate? What did you do?

Mrs. LABA. I am sorry, but I will have to rely on my constitutional rights.

Mr. SCHERER. I ask that you direct the witness to answer the question.

Mr. DOYLE. I instruct you to answer the question as to what you did to participate in the hearing. You have testified that you participated. Now, what did you do? Did you answer questions asked by Dr. Kennelly?

Mrs. LABA. I do not believe this question has any relevance to the real function of this committee and, in addition, I shall have to invoke my constitutional rights.

Mr. DOYLE. I think it is a preliminary question, preliminary to other questions which we shall ask you.

Mr. SCHERER. May I further say, Mr. Chairman, as I said before, so the record is clear and so there is no misunderstanding, it was this witness who mentioned the hearing and used it as a basis for refusing to answer questions.

Since she raised the issue voluntarily, we have a right to know the nature of the hearing and the extent of the hearings as a basis for judging whether she is invoking the reason as a refusal for not answering correctly.

Mr. DOYLE. Did you hear Mr. Scherer's comment?

Mrs. LABA. To some extent. I am sorry, but I did not hear the entire comment. I have a hearing aid on, but it is not working too well.

Mr. SCHERER. You were directed to answer whether or not you were a witness at this hearing before Dr. Kennelly and to answer in what manner you participated in this hearing.

You have refused to answer that question, invoking the fifth amendment. I have said that the committee does not accept your answer. One of the reasons we do not accept your answer is the fact that you yourself injected this hearing before Dr. Kennelly into the testimony and gave it as a reason for your refusal to answer questions.

Mrs. LABA. I am not giving that as the reason for my refusal to answer questions. I am pointing out, however, that this is one of the background conditions that exists.

I further invoke the fifth amendment and also pointed out that I feel that your question has no relevancy to the legal functions of the committee.

Mr. ARENS. Who else participated in this hearing besides yourself and Dr. Kennelly?

Mrs. LABA. I will have to give you the same answer as I have just stated.

Mr. SCHERER. I ask you to direct the witness to answer the question.

Mr. DOYLE. I direct you to answer the question, Witness. I think you have made it clear to us that the hearing involved your application to the Supreme Court of New Jersey for reinstatement as a teacher in the Newark School System, is that not true?

Mrs. LABA. Yes.

Mr. DOYLE. And that your application for reinstatement as a schoolteacher in the Newark School System resulted from your release or discharge or suspension from the Newark School System, growing out of the hearings in Newark about which our counsel calls your attention in which you were a witness before the committee.

Is that not true?

Mrs. LABA. I did not state all that, I do not believe, but that is substantially true.

Mr. DOYLE. You then were suspended, were you not, by the school authorities of Newark from the position as a schoolteacher on account of the actions you took before the subcommittee of this House Committee on Un-American Activities at those Newark hearings. Is that not true?

Mrs. LABA. I believe so.

Mr. DOYLE. I asked you those questions because I think your testimony showed that and my own knowledge of those hearings, because I was present at those hearings as a member of that subcommittee at which you testified, as I recall.

Later, I was informed that you were suspended by the board on account of your claiming of the constitutional privilege or other actions before the committee at that time. I have asked those questions to lay the groundwork for your further understanding as to why we are questioning you now at this hearing.

Mrs. LABA. It is not quite clear yet.

Well, what is your next question?

Mr. ARENS. Did you tell the truth in the hearing that you had with Dr. Kennelly?

Mrs. LABA. I am sorry but I cannot divulge information relative to that inquiry.

Mr. ARENS. This question does not ask you to divulge the facts of the inquiry. We may get into that later. I am just asking you in that inquiry in which you were a participant, did you tell the truth?

Mrs. LABA. I will have to rely on the fifth amendment.

Mr. SCHERER. I ask that you direct the witness to answer that question. The witness has injected that matter into the hearing. If she had any right to invoke the fifth amendment, she certainly has waived it. She injected into this hearing the hearing before Dr. Kennelly.

Mrs. LABA. I fail to see how this question is relevant or pertinent to any legislation function that this committee may have and, in addition, I will have to rely on my constitutional rights.

Mr. ARENS. I would like to have the record clear on this thing.

Mrs. LABA, do you honestly feel that if you told this committee now whether or not you told the truth in the hearing before Dr. Kennelly,

you would be giving information which might be used against you in a criminal proceeding? Do you understand the question?

Mrs. LABA. No, please restate it.

Mr. ARENS. The principal question was, did you tell the truth when you participated in the hearing before Dr. Kennelly, and you have invoked the fifth amendment on that.

Now, I want to know if you honestly feel that if you told us whether you told the truth in your hearing before Dr. Kennelly, you would be supplying information that could be used against you in a criminal proceeding?

Mrs. LABA. Again, I will have to rely on my constitutional rights.

Mr. SCHERER. I ask the chairman to direct the witness to answer that question.

Mr. DOYLE. I direct you to answer that question. What is your answer to my direction that you answer that question as to whether or not you told the truth when you participated as a witness at the hearing before Superintendent Kennelly?

Mrs. LABA. I would like to point out again that I feel that this particular question has no relevancy to the question which this committee has been legally set up, and, in addition, I will have to rely on my constitutional rights and invoke the fifth amendment, in spite of the fact that I have the greatest deference for this committee.

Mr. SCHERER. Mr. Arens asked you another question. He said to you: Do you in good faith believe that if you answered the question as to whether or not you told the truth in the hearing before Dr. Kennelly, you would be supplying information that might lead to a criminal prosecution?

That question the courts have said you must answer either "yes" or "no."

Mr. ARENS. The purpose of the testimony is to test her good faith in the invocation of the fifth amendment.

Mrs. LABA. I should like to give the same answer to this question, if it is directed that I answer, that I have given to the other questions.

Mr. ARENS. I suggest the record reflect an order and a direction to her to answer.

Mr. DOYLE. We heard your answer just given. I want again to make it clear to you that I am directing you to answer the question which Mr. Arens, our director, asked you. That is, I want to make it clear on the record and to you that I am directing you to answer that question which Mr. Arens, our director, asked you.

Mrs. LABA. I wish to state that I feel that this committee's question has no relevancy to the matter or matters for which the committee has been set up and I wish, at the same time, to invoke my constitutional rights under the fifth amendment.

Mr. ARENS. Then I would like to ask the converse of that question. I want you to understand what the question is going to be now.

I have asked you, in effect, if you told the truth in the hearing before Mr. Kennelly. Now, I am going to ask you the converse of that question. There is no other way to put it than the simple language:

Did you lie before the Kennelly hearing?

Mrs. LABA. My answer is the same.

Mr. ARENS. Do you honestly believe in good faith that if you told us now whether or not you lied when you appeared and participated

in the hearing before Dr. Kennelly, you would be supplying information which might be used against you in the criminal proceeding?

Mrs. LABA. That is right.

Mr. ARENS. I beg to differ with you.

Mrs. LABA. I wish to state again that I feel that the question is not pertinent to the matters for which the committee—

Mr. SCHERER. Let me interrupt you.

Obviously, Mr. Arens' last question has no pertinency to any legislative purpose. He was merely asking you if you were invoking the fifth amendment in good faith. He was not asking you anything else other than if you were honestly invoking the fifth amendment, whether you honestly believed that to tell us whether you lied would lead to a criminal prosecution.

All we want to know is if you are honestly invoking the fifth amendment, whether you obviously believe what you have said. That is to test your credibility, and the courts have said that to that question you would obviously say "Yes," if you thought it would lead to criminal prosecution. It has nothing to do with the subject of the investigation.

Mrs. LABA. I wish to state that I am honestly invoking the fifth amendment and, at the same time, I feel that the question has no relevancy.

Mr. ARENS. See if you can help me on this: I want to be sure I understand the status of the record.

I have asked you, first of all, if you told Dr. Kennelly the truth in this hearing, and you invoked the fifth amendment. I then asked you whether or not you invoked the fifth amendment in good faith, and you again invoked the fifth amendment.

I then asked you if you lied to Dr. Kennelly and you have invoked the fifth amendment. I asked you if you invoked the fifth amendment in good faith, and you invoked the fifth amendment again.

I am now asking you another question: Is there something you said, or failed to say, in your appearance before Dr. Kennelly in this proceeding which was untruthful?

Mrs. LABA. May I point out that I did state that I invoked the fifth amendment in good faith and honestly. I did state that and I do not believe you were aware of that.

Mr. ARENS. You understand this question does not ask you what you said to Dr. Kennelly. The question is, did you tell him the truth or did you lie?

Mrs. LABA. Yes, I understand this question, but I was just pointing out that I did not invoke the fifth amendment when you asked if I had invoked the fifth amendment honestly in good faith.

Mr. ARENS. Then I take it if you told us whether or not you lied to Dr. Kennelly, you would be supplying information that could be used against you in a criminal proceeding?

Mrs. LABA. Again, I will have to invoke the fifth amendment and also point out that this question has no relevancy to the legislative purpose for which the committee has been set up.

Mr. DOYLE. In view of the fact that you keep on repeating that these questions have no relevancy to the purpose for which this committee was set up by Congress, my question is directed to you particularly on that point. You keep on mentioning that you do not

think it has any relevancy or pertinency. You heard Mr. Arens when the hearings first began state the purpose of this hearing, that it was based upon the fact that we were informed that there was a labor union in Newark made up, or largely made up, of schoolteachers who were members of the Communist Party, did you not? Did you hear him state that?

Mrs. LABA. Yes, I heard Mr. Arens' opening statement.

Mr. DOYLE. And you heard him state that in substance about the union?

Mrs. LABA. I think that is approximately.

Mr. DOYLE. Then you heard him state, too, that in connection with that statement that we were questioning you because the question of possible legislation is involved, involving labor unions which may be dominated or controlled by Communists.

Mrs. LABA. Yes; I have heard that.

Mr. DOYLE. The reason for asking you these questions is to point out the relevancy and pertinency of these questions which go into the facts surrounding questions of fact.

Mr. ARENS. You have told us a little about the nature of the proceeding. Could you help us on this? If a person in that type of proceeding falsifies, deliberately misrepresents the facts, is that person subject to a perjury prosecution? Could you tell us?

Mrs. LABA. I have no idea. I do not have very good legal knowledge.

Mr. ARENS. Did you perjure yourself before the Kennelly inquiry?

Mrs. LABA. I am sorry, but I feel that this question also is irrelevant with respect to the purpose for which the committee was set up, and again will have to invoke my constitutional rights.

Mr. ARENS. Mr. Chairman, I respectfully suggest that the proceeding today now be recessed and that the witness be maintained under the subpoena which was served upon her, subject to determination of a time for further interrogation.

Perhaps the chairman would prefer to have a date set for her reappearance.

Mr. DOYLE. We are discussing the matter of a date. It seems necessary to recess this hearing at this time and have it continued until a later date. We are sorry for the inconvenience it causes you and your counsel.

There is a major debate on the floor of the House involved, too, and we are going to try to fix a date.

Mr. ARENS. I would respectfully suggest that you fix the day for her appearance, continuing under this subpoena, on Wednesday, August 7, at 10 a. m.

Mr. DOYLE. We are discussing August 7, and I am going to ask counsel if that is satisfactory to him, also.

Mr. ROSSMOORE. I am not her regular counsel. Her regular counsel requested me to go here because he had a case which he could not postpone. I will be out of town on August 7 and I would prefer not to interrupt that schedule to be here.

Mrs. LABA. I believe my regular attorney will be out of town on that date.

Mr. ARENS. Who is your regular attorney?

Mrs. LABA. Emil Oxfeld. I would appreciate it if you could recess this until your early convenience in September because he usually

takes the month of August off, and I believe he has already made arrangements to be out of town.

Mr. DOYLE. In view of that fact that your counsel is engaged on August 7 and you have made the request that we fix a date agreeable to your regular counsel, would it be satisfactory to you, Witness, and to you, Counsel, if we continue the subpoena in full force and effect until our director and counsel arrange some date with your regular counsel which is satisfactory to both our committee and to your regular counsel?

Mr. ARENS. Could you help us, too, by giving us the address of your counsel if you know it offhand?

Mr. ROSSMOORE. It is 744 Broad Street, Newark.

Mr. DOYLE. Is that satisfactory to both of you?

Mrs. LABA. Yes, sir.

Mr. ROSSMOORE. Yes, sir.

Mr. DOYLE. We will let the subpoena remain in full force and effect. It means you are still under subpoena. It might be 3 or 4 or 5 or 6 weeks before you are called back, but we will not have to resubpoena you. We will not have to serve you with any more papers to appear.

Mr. SCHERER. In view of the fact that she says that her counsel is unable to appear on the date we suggest, it is an accommodation to her.

Mr. ROSSMOORE. I appreciate the committee's cooperation with counsel.

(The witness was temporarily excused.)

Mr. ARENS. Mr. Chairman, there is another witness to be heard.

Mr. ARENS. Mr. Zimmerman, will you remain standing while the chairman administers an oath to you?

Mr. DOYLE. Do you swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth so help you God?

Mr. ZIMMERMAN. I do.

TESTIMONY OF PERRY ZIMMERMAN, ACCOMPANIED BY COUNSEL, RICHARD F. GREEN

Mr. ARENS. Kindly identify yourself by name, residence, and occupation.

Mr. ZIMMERMAN. My name is Perry Zimmerman. My address is 58 Norwood Street, Newark, N. J. I was a teacher.

Mr. ARENS. Your present occupation?

Mr. ZIMMERMAN. I am a draftsman.

Mr. ARENS. You are appearing today in response to a subpoena which was served upon you by the House Committee on Un-American Activities?

Mr. ZIMMERMAN. That is correct.

Mr. ARENS. You are represented by counsel?

Mr. ZIMMERMAN. Yes, sir.

Mr. ARENS. Counsel, kindly identify yourself.

Mr. GREEN. Richard F. Green, No. 7 West Grant Street, Elizabeth, N. J.

Mr. ARENS. Are you the same Perry Zimmerman, for purposes of identification, who appeared before the Committee on Un-American Activities in Newark, N. J., in May of 1955?

Mr. ZIMMERMAN. That is correct.

Mr. ARENS. Are you the same Perry Zimmerman who appeared before the superintendent of the Board of Education of Newark, N. J., on May 16, 1957, in an inquiry conducted by the superintendent of the Board of Education of Newark, N. J.?

Mr. GREEN. It is not the superintendent of the board. It is the superintendent of schools. That is his correct title.

Mr. ARENS. Thank you for the correction, counsel.

Mr. ZIMMERMAN. Yes.

Mr. ARENS. Where were you last employed in the school system?

Mr. ZIMMERMAN. In Newark, N. J.

Mr. ARENS. In what capacity were you employed?

Mr. ZIMMERMAN. A teacher of mathematics in grades 6 and 7.

Mr. ARENS. What occasioned your disassociation from the school system?

Mr. ZIMMERMAN. A suspension.

Mr. ARENS. Upon what grounds?

Mr. ZIMMERMAN. On the grounds that I had appeared before this committee and had availed myself of the rights as guaranteed to me by the fifth amendment.

Mr. ARENS. Did you testify before the superintendent of schools—

Mr. GREEN. He is a civil-service employee of the board of education, which happens to be a separate corporation under New Jersey law.

Mr. ARENS. Did you testify before Dr. Kennelly on May 16, 1957?

Mr. ZIMMERMAN. May I consult with my counsel?

Mr. ARENS. Yes, sir.

(The witness conferred with his counsel.)

Mr. ZIMMERMAN. Without waiver of rights guaranteed to me by the fifth amendment, I did so.

Mr. ARENS. Were you sworn in that proceeding?

Mr. ZIMMERMAN. That is correct.

Mr. ARENS. Were your statements made on that occasion truthful statements?

Mr. ZIMMERMAN. I am declining to answer that question, sir, on the basis of my rights under the fifth amendment and also because the business of education in the State of New Jersey is not a proper matter for this committee.

Mr. ARENS. At that point I should like to advise you, first of all, that this committee has under consideration possible legislation undertaking to cope with the problem created by Communist penetration of teachers' unions, as well as other unions.

It is the information of the committee, and the suggestion has been made to the committee, that you might have information on that subject matter and that is why we feel that these questions are pertinent.

Do you honestly feel, Mr. Zimmerman, that if you told us now truthfully whether or not you told the truth in the proceeding before Dr. Kennelly of May 16, 1957, you would be supplying information which might be used against you in a criminal proceeding?

Mr. ZIMMERMAN. I wish my two previous answers to stand and also, in addition to that, I wish to state that at the present time I am engaged in litigation with the board of education and I do not wish to answer that question any further.

Mr. ARENS. Mr. Chairman, I respectfully request an order and a direction to the witness to answer the question whether or not he honestly contends that if he answered the principal outstanding question, he might be supplying information that would be used against him in a criminal proceeding.

Mr. DOYLE. We cannot accept your previous answer as sufficient, and I direct you to answer the question.

Mr. ZIMMERMAN. I wish to stand on my rights as guaranteed by the fifth amendment.

Mr. SCHERER. Do you really understand the question Mr. Arens was asking you? He was merely asking you if you were invoking the fifth amendment in good faith, whether you honestly believe in your own mind that to answer the question as to whether you told the truth before Dr. Kennelly might lead to a criminal prosecution.

Mr. ZIMMERMAN. I wish my answer to stand, sir.

Mr. ARENS. I want to ask you the converse of that question. When you were sworn and testified before Dr. Kennelly in those proceedings, did you lie?

Mr. ZIMMERMAN. Again, I wish to avail myself of my constitutional privilege.

Mr. ARENS. Do you honestly feel if you told us whether or not you lied to Dr. Kennelly, you would be supplying information which might be used against you in a criminal proceeding?

Mr. ZIMMERMAN. Again for the three reasons which I previously stated, I decline to answer the question.

Mr. ARENS. Mr. Chairman, I respectfully suggest on this last question he be ordered and directed to answer the question.

Mr. DOYLE. Yes, I order and direct the witness to answer that last question. The committee cannot accept your last answer as sufficient.

Mr. SCHERER. May I supplement that by saying, in effect, Mr. Arens is asking you if you are invoking the fifth amendment in good faith. That is all he is asking you, in substance.

Mr. ZIMMERMAN. I wish my answer to stand.

Mr. ARENS. I respectfully suggest this witness be continued under subpoena and that the proceedings be suspended today and that the time and place for a subsequent hearing be communicated to his counsel at a later date.

Mr. DOYLE. This hearing will be continued until a later date, and the date will be arranged with your counsel. Therefore, the subpoena will stand in full force and it will be unnecessary to resubpoena you for the next appearance; is that satisfactory, Mr. Green?

Mr. GREEN. You put me on the spot, Congressman. We recognize the order of the committee.

Mr. ARENS. Kindly give us on this record your telephone number and address. I believe you told me on the phone the other day, but I would like to have it on this record.

Mr. GREEN. I can best be reached at the telephone number of my associate, Myles C. Morrison, whose number is Elizabeth 2-7968. My own number which is on answering service is Elizabeth 2-1518.

Mr. DOYLE. The committee will stand in recess.

(Whereupon, at 3:25 p. m., Wednesday, July 24, 1957, the hearing in the above-entitled matter was recessed, subject to the call of the Chair.)

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